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BEFORE THE ARIZONA CORPORATI

COMMISSIONERS

SUSAN BITTER SMITH, Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

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Arizona Corporation Commission

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MAY 04 2015

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In the matter of:

ORIGINAL

Docket No. S-20906A-14-0063

CONCORDIA FINANCING COMPANY, LTD,
a/k/a "CONCORDIA FINANCE,"

ER FINANCIAL & ADVISORY SERVICES,
LLC,

LANCE MICHAEL BERSCH, and

DAVID JOHN WANZEK and LINDA
WANZEK, husband and wife,

Respondents.

**RESPONSE TO SECURITIES
DIVISION'S MOTION FOR LEAVE TO
FILE AMENDED NOTICE OF
OPPORTUNITY**

Respondents ER Financial & Advisory Services, LLC, Lance Michael Bersch, David John Wanzek, and Linda Wanzek (the "ER Respondents") respond to the Securities Division's Motion for Leave to File Amended Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution, Order for Administrative Penalties, and Order for Other Affirmative Action.

The proposed amended notice contains new and previously undisclosed fraud theories, as well as a new count for "control person liability". The Division has invented wholly new and previously undisclosed theories of fraud. The ER Respondents will require additional time to analyze and investigate these new allegations, if the Division persists with them. Further, the proposed amended notice also adds a new count for control person liability. The ER Respondents will require additional time to analyze and investigate this new count as well. Both the fraud and control person counts are made only against the ER Respondents, for unknown reasons.

1 Typically, leave to amend is freely granted. Accordingly, the ER Respondents do no
2 object to granting leave to amend. However, the ER Respondents reserve the right to challenge
3 the legal sufficiency of these new allegations by motion to dismiss as permitted by A.A.C. R14-
4 3-106(H), and to dispute the allegations in their answer. In addition, the ER Respondents reserve
5 the right to include affirmative defenses, cross-claims, counterclaims or third party claims with
6 their answer to the amended notice. Lastly, the ER Respondents reserve their right to peruse
7 discovery related to these new allegations.

8
9 RESPECTFULLY SUBMITTED this 4th day of May 2015.

10
11
12 By 

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28 *Attorneys for the ER Respondents*

Original + 13 copies of the foregoing
filed this 4th day of May 2015, with:

Docket Control
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Copies of the foregoing hand-delivered/mailed
this 4th day of May 2015, to:

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By *Jaclyn Howard*